

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public)	Application No. C-4145 / NUSF-74
Service Commission on its own motion)	PI-147
to conduct an investigation on intrastate)	
switched access charge policies and)	COMMENTS OF COX NEBRASKA
regulation codified in Neb. Rev. Stat.)	TELCOM, LLC
Section 86-140.)	

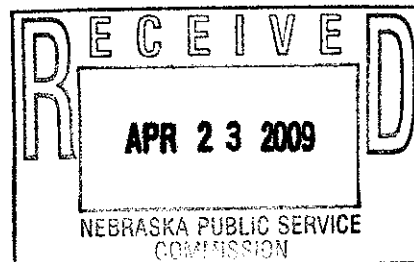
INTRODUCTION

Cox Nebraska Telcom, LLC ("Cox") hereby files these comments for the Nebraska Public Service Commission's ("Commission") consideration in Application No. C-4145 / NUSF-74 / PI-147. Cox appreciates the opportunity to provide input on this subject. While Cox does not receive high-cost support from the Nebraska Universal Service Fund ("NUSF"), developing sound intrastate switched access charge policies is critical for all telecommunications companies. As such, Cox files these comments and looks forward to working with the Commission as this investigation proceeds.

**COORDINATION WITH FEDERAL INTERCARRIER
COMPENSATION REFORM IS NECESSARY**

The Commission requests comment on specific evidentiary criteria that should be considered in intrastate access charge dockets under Neb. Rev. Stat. §86-140. In addition, the Commission seeks input on various miscellaneous questions concerning the frequency of access cases, access rate structure and policy goals. While those issues are important, Cox focuses its comments herein on the following question:

- 4.) Should the Commission's policy of intrastate switched access rate reform be modified? If so, in what way?



ORCA

Cox does not believe the Commission should make intrastate access modifications at this time. Cox commends the Commission for exploring this topic; however, it believes that is most prudent for the Commission to wait and determine what federal intercarrier compensation actions are taken before implementing new intrastate policies.

When the Commission adopted its access reform goals and objectives in 1999, it led the nation in tackling what is a difficult and complex regulatory dilemma. The Commission has successfully operated under the decisions it made back in 1999 for the past decade. However, the vast and immeasurable consequences of the actions that the Federal Communications Commission ("FCC") may take in the area of intercarrier compensation are uncertain. And, unquestionably whatever action the FCC takes will greatly impact Nebraska.

While it is unknown precisely when the FCC will act given its past record on addressing this issue, it is widely agreed that intercarrier compensation and universal service reform is one of the most significant matters the FCC has pending and that it will be focused on once the FCC's new leadership is established. The FCC is presently working to implement a national broadband policy as required in the American Recovery and Reinvestment Act of 2009. However, it is likely that the topic of intercarrier compensation will again rise in importance and be addressed by the FCC, as the agency did in the latter part of 2008 where it received two new rounds of comments and innumerable ex parte meetings in an effort to issue an order before the expiration of Chairman Martin's term. Although ultimately, a final decision was not made, comprehensive draft decisions were circulated and widely debated. The record at the FCC is current and complete and should be ready for action.

This belief that action is forthcoming is bolstered by the recent issuance of a Notice of Inquiry ("NOI") by the FCC on April 8, 2009 in WC Docket No. 05-337, CC Docket No. 96-45. Through this new NOI, the FCC seeks to refresh the record regarding high-cost universal service support for non-rural carriers as a result of the action taken by the Tenth Circuit Court of Appeals in *Qwest II*.¹ Previously, in December 2005, the FCC had issued a Notice of Proposed Rulemaking ("NPRM") on the non-rural support mechanism in light of the *Qwest II* decision,² in which numerous proposals for comprehensive reform of non-rural federal USF support had been proposed. Through the new NOI, the FCC is seeking information on the amount of support to be provided to each state by comparing the statewide average forward-looking cost per line for non-rural carriers to a nationwide cost benchmark. The FCC also seeks comment on how a decision in this proceeding should relate to comprehensive high-cost reform and the FCC's initiatives regarding broadband deployment. Comments to the NOI are due May 8, 2009 and Reply Comments are due June 8, 2009. In a Statement attached to the NOI, Acting-Chairman Michael J. Copps states: "The Commission will conclude with a final order by the middle of April 2010."³

Cox's recommendation that the Commission proceed in a collaborative manner is akin to the position taken by the National Association of Regulatory Utility Commissioners ("NARUC"). On November 26, 2008, NARUC filed Initial Comments with the FCC in CC Docket 01-92 (*Developing a Unified Intercarrier Compensation*

¹ *Qwest Communications Int'l, Inc. v. FCC*, 398 F.3d 1222 (10th Cir. 2005) (*Qwest II*).

² *Federal-State Joint Board on Universal Service, High-Cost Universal Service Support*, CC Docket No. 96-45, WC Docket No. 05-337, Notice of Proposed Rulemaking, 20 FCC Rcd 19731 (2005) (*Remand NPRM*).

³ *Federal-State Joint Board on Universal Service, High-Cost Universal Service Support*, CC Docket No. 96-45, WC Docket No. 05-337, Notice of Inquiry, April 8, 2009.

Regime) that advocated for state involvement in intercarrier compensation reform.⁴ Upon the FCC proposing that it would include intrastate access reform within its framework for overall intercarrier compensation reform, NARUC argued that states must be involved in making access charge reform decisions. Cox does not disagree. States should be involved in such decisions. But similar to the NARUC comments, Cox advocates that a collaboration and partnership between federal and state regulatory bodies is necessary in order to effectuate sound intercarrier compensation policies so that neither consumers nor providers are unfairly burdened by the reforms and wasteful regulatory arbitrage is avoided.

CONCLUSION

Cox compliments the Commission on examining this issue as intercarrier compensation is of importance and concern to the entire telecommunications industry. However, the most sensible course is to determine what federal impact there may be to Nebraska and for the Commission to proceed accordingly. The blending and disguising of traffic is already significant. If the Commission acts independently, it may only serve to intensify the arbitrage that presently exists.

As the Commission is well aware, consumer behavior is changing. The arrival of Voice over Internet Protocol ("VoIP"), the surge in wireless consumers, the decrease in long distance traffic and continual technological advances signify the Commission should examine access charges in the context of global reform, and not on a state-specific basis.

If the Commission elects to proceed and not wait for federal action, Cox encourages any decisions made be applicable on an interim basis only, much as it did in the early

⁴ Initial Comments of the National Association of Regulatory Utility Commissioners, *Order on Remand and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 01-92, (rel. November 12, 2008), November 26, 2008.

the first of these is the fact that the
the second is the fact that the
the third is the fact that the
the fourth is the fact that the
the fifth is the fact that the
the sixth is the fact that the
the seventh is the fact that the
the eighth is the fact that the
the ninth is the fact that the
the tenth is the fact that the

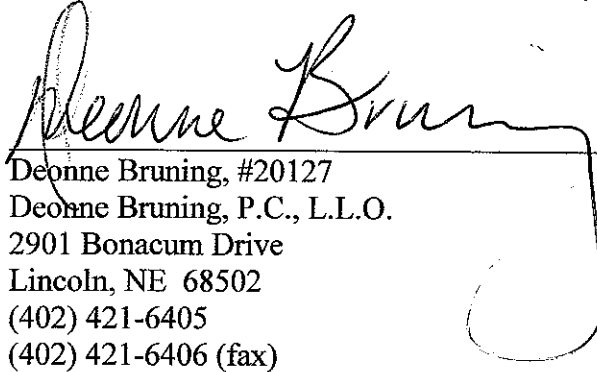
Conclusion

The first of these is the fact that the
the second is the fact that the
the third is the fact that the
the fourth is the fact that the
the fifth is the fact that the
the sixth is the fact that the
the seventh is the fact that the
the eighth is the fact that the
the ninth is the fact that the
the tenth is the fact that the
the eleventh is the fact that the
the twelfth is the fact that the
the thirteenth is the fact that the
the fourteenth is the fact that the
the fifteenth is the fact that the
the sixteenth is the fact that the
the seventeenth is the fact that the
the eighteenth is the fact that the
the nineteenth is the fact that the
the twentieth is the fact that the
the twenty-first is the fact that the
the twenty-second is the fact that the
the twenty-third is the fact that the
the twenty-fourth is the fact that the
the twenty-fifth is the fact that the
the twenty-sixth is the fact that the
the twenty-seventh is the fact that the
the twenty-eighth is the fact that the
the twenty-ninth is the fact that the
the thirtieth is the fact that the
the thirty-first is the fact that the
the thirty-second is the fact that the
the thirty-third is the fact that the
the thirty-fourth is the fact that the
the thirty-fifth is the fact that the
the thirty-sixth is the fact that the
the thirty-seventh is the fact that the
the thirty-eighth is the fact that the
the thirty-ninth is the fact that the
the fortieth is the fact that the
the forty-first is the fact that the
the forty-second is the fact that the
the forty-third is the fact that the
the forty-fourth is the fact that the
the forty-fifth is the fact that the
the forty-sixth is the fact that the
the forty-seventh is the fact that the
the forty-eighth is the fact that the
the forty-ninth is the fact that the
the fiftieth is the fact that the
the fifty-first is the fact that the
the fifty-second is the fact that the
the fifty-third is the fact that the
the fifty-fourth is the fact that the
the fifty-fifth is the fact that the
the fifty-sixth is the fact that the
the fifty-seventh is the fact that the
the fifty-eighth is the fact that the
the fifty-ninth is the fact that the
the sixtieth is the fact that the
the sixty-first is the fact that the
the sixty-second is the fact that the
the sixty-third is the fact that the
the sixty-fourth is the fact that the
the sixty-fifth is the fact that the
the sixty-sixth is the fact that the
the sixty-seventh is the fact that the
the sixty-eighth is the fact that the
the sixty-ninth is the fact that the
the seventieth is the fact that the
the seventy-first is the fact that the
the seventy-second is the fact that the
the seventy-third is the fact that the
the seventy-fourth is the fact that the
the seventy-fifth is the fact that the
the seventy-sixth is the fact that the
the seventy-seventh is the fact that the
the seventy-eighth is the fact that the
the seventy-ninth is the fact that the
the eightieth is the fact that the
the eighty-first is the fact that the
the eighty-second is the fact that the
the eighty-third is the fact that the
the eighty-fourth is the fact that the
the eighty-fifth is the fact that the
the eighty-sixth is the fact that the
the eighty-seventh is the fact that the
the eighty-eighth is the fact that the
the eighty-ninth is the fact that the
the ninetieth is the fact that the
the ninety-first is the fact that the
the ninety-second is the fact that the
the ninety-third is the fact that the
the ninety-fourth is the fact that the
the ninety-fifth is the fact that the
the ninety-sixth is the fact that the
the ninety-seventh is the fact that the
the ninety-eighth is the fact that the
the ninety-ninth is the fact that the
the hundredth is the fact that the

days during the creation of the Nebraska Universal Service Fund. Any of the Commission's upcoming decisions in the area of access reform should be considered temporary, and subsequently evaluated once the FCC issues its ruling. If substantive policy decisions are going to be made at the present time, then Cox requests that the Commission allow the filing of Reply Comments from interested parties.

Respectfully submitted this 23rd day of April, 2009.

ATTORNEY FOR COX NEBRASKA TELCOM, LLC



Deonne Bruning, #20127
Deonne Bruning, P.C., L.L.O.
2901 Bonacum Drive
Lincoln, NE 68502
(402) 421-6405
(402) 421-6406 (fax)

The first of these is the fact that the
 system is not a simple one. It is a
 complex one, and it is not possible to
 describe it in a simple way. It is a
 system of many parts, and it is not
 possible to describe it in a simple way.
 It is a system of many parts, and it is
 not possible to describe it in a simple way.
 It is a system of many parts, and it is
 not possible to describe it in a simple way.

The second of these is the fact that the
 system is not a simple one. It is a
 complex one, and it is not possible to
 describe it in a simple way. It is a
 system of many parts, and it is not
 possible to describe it in a simple way.

The third of these is the fact that the
 system is not a simple one. It is a
 complex one, and it is not possible to
 describe it in a simple way. It is a
 system of many parts, and it is not
 possible to describe it in a simple way.

The fourth of these is the fact that the
 system is not a simple one. It is a
 complex one, and it is not possible to
 describe it in a simple way. It is a
 system of many parts, and it is not
 possible to describe it in a simple way.